

# AN EXAMINATION OF THE LEGAL FRAMEWORK GOVERNING ELECTRONIC FILING OF CASES IN TANZANIA

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## ABSTRACT

This study is aimed at examining the effectiveness of the electronic filing of cases in the dispensation of justice in Tanzania. More specifically it aimed to examine the legal framework governing electronic filing of cases in Tanzania. Among the objectives of the study were to examine the effectiveness of electronic filing of cases in Tanzania in line with the principles enshrined under Article 107A (2) of the constitution of United Republic of Tanzania which requires courts in delivery of justice to be impartial, to decide matters expeditiously as well as to avoid being tied up with technicality provisions which obstructs justice. The study was conducted in Mwanza Region in Nyamagana and Ilemela Districts. Being a qualitative work, this study is solely based on the materials found in the library and other related materials found in websites. From the research findings it can be established that e-filing of cases has enabled the courts to adopt the growth of science and technological developments as now cases and documents can be filed vide electronic system something which facilitates dispensation of justice timely. However, still there are challenges on the system hence the new filing system of e-case management system (E-CMS) should be solidified so as to do away with challenges that were tainting the judicial statistical dashboard system (JSDS). All in all unlike paper form, the E-filing will likely have a more pervasive effect on the legal system in Tanzania

**Keywords:** E-Filing, Cases, E-CMS, JSDS, Filing, Legal Framework

## INTRODUCTION

The Tanzania judicial system has embraced e-filing as a medium of filing court documents. The system was primarily established to ensure efficient administration of justice in Tanzania and it was fundamentally adopted and put into operation as a result of advancements of science and technology taking place in the modern world. Before introduction of e-filing, court documents were filed manually, by then the court officers including advocates would file court documents physically. However, from 2018 after the enactment of the Judicature and Application of Laws (Electronic Filing) Rules 2018,<sup>i</sup> and now all courts documents must be filed electronically.

The Judiciary in Tanzania is one of the pillar of the state established under Article 107A (1) of the Constitution of the United Republic of Tanzania,<sup>ii</sup> and mandated with the power of final decision in dispensation of justice, and in the process of delivering justice the judiciary is required to observe principles such as impartiality to all without due regards to one's social or economic status, not to delay dispensation of justice without reasonable ground, to dispense justice without being tied up with technicalities.<sup>iii</sup> Thus in order to ensure the smooth dispensation of justice to the people in Tanzania the court has put some strategies, policies, and regulations which help to smoothen the process of filing the case, proceedings of the cases and delivering of judgments to the cases.

The Electronic judiciary (E-judiciary) can be defined as the use of information and communication technology (ICT) to improve the access of citizens to judicial system and services and to render effective judicial actions, which consists of dispute settlement or the imposition of criminal sanctions. The adoption of the E-judiciary has brought some changes and efficiency in the filing and moderation of the cases, as it has resulted in enhancing proficiency, creativity, productivity and transparency and has also reduced red taped and corruption in the judiciary.<sup>iv</sup>

The history of electronic filing (e-filing) of cases in Tanzania dates back to 2018 when the Chief Justice promulgated the Judicature and Application of Laws (Electronic Filing) Rules 2018<sup>v</sup>. Such rules were made pursuant to section 4 of the Rules 2018<sup>vi</sup> which mandates the Chief Justice with the power to make rules and regulations in the practices and procedure which governs the High Court and the subordinate courts to include the Courts of Resident Magistrate

and the District Courts. The rules have been adopted to ensure timely dispensation of justice. when a document is filed it becomes part and parcel of records.<sup>vii</sup> Before the adoption of e-filing system, courts documents were filed manually.<sup>viii</sup> It means court documents were to be printed and presented to the court registries physically. The documents were then supposed to be reviewed and delivered to Magistrates or judge in charge for the assignment to a Magistrate or a judge who will have the case. At that time the Attorneys, Advocates or Party to the case had to wait for at least five days to visit the registry again and check on the status of their cases, as it was provided under Order IV Rule (1) of the Civil Procedure Code.<sup>ix</sup>

Like in other jurisdictions, the manual filing systems has numerous problems such as poor records management, inadequate legal compliance, misfiling of documents, mixing records from different subjects in one file, delays in file processing and retrieval, and lack of vital records plans.<sup>x</sup> Therefore the above is experience from other jurisdiction but it is relevant in Tanzania. All these have been affecting the whole process of dispensation of justice hence the need for e-filing system. These challenges affected the administration of justices because there were delays in the court process. In Kenya the manual filing was considered to be costly and time-consuming,<sup>xi</sup> where the same situation could be seen in Tanzania.<sup>xii</sup>

It is for these reasons that the judiciary of Tanzania came up with a strategy for the modern system of electronic filing system which reflects the development of technology and modern judicial service. According to Rule 4, of the Rules 2018,<sup>xiii</sup> now the Advocates, State Attorneys and agents can now file their documents electronically. Moreover, with an e-filing system even Judgement, Orders, Decrees and Ruling may be signed electronically<sup>xiv</sup>.

In other common law jurisdictions such as the United States of America there has been an approval of Public Access to Court Electronic Records in 1988 (PACER) and the adoption of the Case Management. Electronic Case Files in 1990 (CM/ECF).<sup>xv</sup> The electronic filing or e-filing is now mandatory in all-federal courts and many state courts in America. E-filing was driven by underlying principles such as e-filing dockets increasing transparency and public access to the judicial system. Second e-filing reduces administrative costs for courts and parties, including filing, processing and storage costs. Also, e-filing makes it possible for judges, court staff and parties to access briefs and supporting materials on Tablets and other highly portable electronic devices. Lastly, Judges, Court, State Attorneys and clients live in a

world that is increasingly electronically based and they expect the judicial system to evolve to fit into that world even if the evolution is relatively slow and cautious.<sup>xvi</sup>

The e-filing of cases in the judiciary was effectively launched in Kenya in nearly 2020; the system enables all the courts in Nairobi to digitalize all filed suits and applications. Under the new electronic system all advocates the office of the director of public prosecution, the police and the members of the public will be required to exclusively register themselves through the portal. For the matter to be filed and placed before a judge for hearing log into the system, upload the documents and pay the court fees and submit the documents for the relevant court division in the portal.

The establishment of the computerized system is part of the ongoing efforts and innovations being implemented by the judiciary of Malawi to bring about establishing a computerized case management system to replace the manual one which has been used by the courts for decades and that this system is aimed at bringing about efficiency in the administration of cases, and improve service delivery by the courts. The Judiciary in Uganda launched and rolled out Electronic Court Case Management Information System (ECCMIS) in selected courts majorly in Kampala and surrounding areas. The system was launched early this year and implemented by pilot courts effective 01 March 2022. ECCMIS is a fully-featured digital system that automates and tracks all aspects of a court case life cycle. ECCMIS has dealt away with the traditional Court Case Administration System (CCAS) - a paper docket system.

The judiciary of Tanzania is the creature of the Constitution of the United Republic of Tanzania 1977.<sup>xvii</sup> The judiciary is vested with the power to dispense justice as provided under Article 107A (1)(2). The said Article also emphasis on the Constitutional principles to be observed in the administration of justice in Tanzania.

These principles guarantee delivery and the dispensation of justice in Tanzania. The first principle, Impartiality to all without due regard to one's social or economic status; Impartiality is a principle of justice holding that court's decision should base on the objective criteria rather than on the bias, prejudice or preferring the benefit to one over another for improper reasons.<sup>xviii</sup> Impartiality entails the quality of not being biased or prejudiced, fairness. Impartiality for proper interpretation or translation, it helps to stay neutral, trustworthy and professional. With



so much emphasis on it, you might begin to worry that being impartial means taking the human element out of the job.<sup>xix</sup>

The second is expeditious trial in sense that courts should not delay dispensation of justice without reasonable ground. This means that without delay, except so far as delay is justify by reasons, the phrase undue delay is a common one and it means that someone has to wait way too long for justice to be done, this is because justice delayed is justice denied.<sup>xx</sup>

The third, to dispense justice without being tied up with technicalities provisions which may obstruct dispensation of justice, technicality generally represents ordinarily a strict adherence to the words of statutes to determine the spirit of justice. This principle further provides that justice must not only be done, but must also be seen to be done. This means that the court should not allow the letter of the law to defeat the sprit and substance of the law, it must be stated that fair hearing cannot be achieved without compliance to the provisions of the adjectival laws in civil and criminal procedures.

To ensure the effective performance of the court in ensuring justice delivery the judiciary has implemented various reforms and one of which was the adoption of technology or computerization of the judiciary which lead to the introduction of electronic filing of cases.<sup>xxi</sup>

The computerization of the courts in Tanzania majorly can be evidenced at the High Courts and Court of Appeal the courts are somehow computerized and the use of Information and communication Technology (ICT) though not all activities of the Courts are done by using ICT but the recent development has shown that most of the activities are computerized such as ways of keeping records. The Court of Appeal on the other hand is recently said to employ ICT tools to record court proceedings and three cases have already been heard using such tools.<sup>xxii</sup>

Recently the judiciary has taken efforts to implement ICT at these courts should be applied to the Magistrate Courts as well as Primary Courts as majority of cases were and are pending these steps were taken to implement computerization at the level of the Trial Court. The process of computerization in the judiciary at Magistrate and Primary Courts can be probably categorized into three (3) phases.

The first phase was that of identification of location and procuring the site for developing computerization.<sup>xxiii</sup> The second phase being concerned mainly to that of procurement of hardware and software that will be needed to meet the computerization. The third phase should

be that of bringing about the further developmental activities to make computerization to meet the needs of the common man.<sup>xxiv</sup>

Tanzanian judiciary marked a long-awaited milestone in electronic filing of cases where the advocates, lawyers and other stakeholders can file their cases on online platforms. This was one results of the development of information and Communication Technology (ICT) which was adopted and used by the judiciary in Tanzania.

Tanzania judiciary has put larger efforts to modernize the court system, Tanzania judiciary has implemented multi-faceted reforms to increase transparency, improve efficiency and speed up the delivery of justice in courts that were once allegedly plagued by the use of manual case filing systems.<sup>xxv</sup> Thus through the e-filing system citizens' access to justice could be effectively attained.<sup>xxvi</sup> The judiciary decided to use cutting-edge digital technologies to save time and money and speed up the delivery of justice as part of the initiative, which includes training court officers, building new court facilities and introducing mobile courts to bring closer to people who were excluded in the past.<sup>xxvii</sup>

As per statistics the use of technology as part of the ongoing reforms the judiciary has expedited 87,119 cases or 98.7% of the 88,232 cases filed at all levels of the court across the country between January and May 2021. Thus, with e-filing, the court process becomes more efficient, where cases are not getting lost as they use to be. An electronic system intends to promote citizens' rights to access justice and allow them to see judgments and laws loaded onto the official Judiciary website which publish decisions (judgments) and laws (the Tanzlii system)

The said Tanzlii is part of e-filing as it ensures transparency to the public at large, but it also mark a point that there is observation of fairness in the court system as the compliance of Constitution of United Republic of Tanzania.<sup>xxviii</sup>

The main aim of establishing an e-filling system was to ensure effective and timely disposal of both criminal and civil cases at an affordable cost, it was also meant to ensure just determination of court process, and ensure efficient use of the available judicial and administrative resources including the use of the suitable technology. However, despite such a good motive behind the establishment of an e-filling system, there are still questions on whether the system is in compliance with the letters of the Constitution of United Republic of Tanzania 1977 especially as laid down under Article 107A(2).<sup>xxix</sup>

As per this sub Article, judiciary is supposed to observe principles such as impartiality to all without due regard to one's social or economic status, not to delay dispensation of justice without reasonable ground, to dispense justice without being tied up with technicalities provisions which may obstruct dispensation of justice. Therefore, implementation of e-filing in connection to the principles enshrined under the Constitution of the United Republic of Tanzania 1977 is a problem that was examined in this study.

## **CONCEPTUAL FRAMEWORK ON ELECTRONIC FILING OF CASES AND DISPENSATION OF JUSTICE**

This section clearly defines and operationalizes various concepts that the researcher employs in conducting this study, the major concepts identified are as shown in the following subsections below.

### ***Justice system***

Justice system is literally defined as collectively description of the various agencies establishment, and institutions tasked with the administering or enforcing the law which are organized primarily around handling either civil or criminal law.<sup>xxx</sup> It signifies the combination of courts and legal process that deal with the administration of maintenance of what is just especially by the impartial adjustment of conflicting claims.<sup>xxxii</sup> In Tanzania justice system entails a legal structure or system that is deigned to judge in general sense who should be accorded a benefit or burden when the law is applied to person factual circumstances.<sup>xxxiii</sup>

The justice system is believed to comprise all government agencies and institutions which are responsible in resolving conflicts and dispute which may arise on alleged violations and sometimes includes difference in interpretation of the rules and regulation which are created by the societies to govern its members behavior and that, as a consequence, are central to strengthening the normative framework (laws and rules) that shapes public and private actions.<sup>xxxiiii</sup> Beyond the rules and regulations the justice system possess the key and significant task or objective which is to uphold the rule of law more broadly and openly which includes providing the checks and balances on abuse of power by the executive and legislative branches of government.<sup>xxxv</sup>

One the important ingredient of the justice system is the principle of rule of law which entails that impersonal and systematic application of known rules to government actors and citizens alike and requires that both be bound by and act consistently with the law.”<sup>xxxv</sup>

This imposed duty is particularly relevant within the lines of ensuring the smooth running of the cases and removing the backlogs of cases before the courts and eradicating grand corruption in the justice system and in result in the normative framework itself being skewed.<sup>xxxvi</sup> Justice institutions then become the last resort to ensure the supremacy of fundamental principles of rule of law, fairness, and equality. The justice system is more than a loosely connected set of independent institutions. These institutions constitute a network of interdependent actors. The performance of each of them is affected by the performance of the others.

Judiciary is at the center of dispute resolution and are supported in this function by a range of other justice sector institutions, including the prosecution service, public defenders, bar associations, state and civil society legal aid providers, police, alternative dispute resolution mechanisms, administrative adjudication and enforcement mechanisms, customary and community-based institutions, anti-corruption and human rights commissions, ombuds offices, judicial academies, and more.<sup>xxxvii</sup>

### ***E-filing of cases***

This is the process of submitting case files and other legal document to the court registry over the internet using a platform that has been pre-approved by the judicial department of the state.<sup>xxxviii</sup> The e-filing system is an electronic file management system where a file in a soft form (or if it is received in hard form, it is transformed to a soft version) is processed and disposed of electronically as the main advantage of the system is that it provides a dashboard which allows the administrator (or whoever as access to) to track every file in the system.<sup>xxxix</sup>

This system provides management and gives courts capability to have case files documents in electronic format and accept filing over internet if they choose to do so. This is an approach which requires that court case records and documents be integrated int any modern court electronic filing and case management services of the judiciary. In Tanzania judicial administration, e-filing of cases aims at managing records as the backbone in the delivery of justice – accurate records provide complete information that helps the judge confer impartial decisions making courts cases.<sup>xl</sup>



Electronic filing involves the use of the Internet and appropriate software which permits documents to be used by a public authority and in that view the documents are transmitted and communicated electronically apart from using the paper format, thus the innovation is called “e-filing.”<sup>xli</sup>

The statistics for electronic filing systems are quite impressive, taking example of Texas, California, and several other states, in the United States of America which show that approximately 15,000 documents are electronically filed per day without submitting paper and among the benefits of e-filing is the elimination of costs of hand delivery, messenger service, printing, photocopying, envelope, postage, and communication management.<sup>xlii</sup>

The system helps and save the public authorities include the avoidance of both printing costs, to make multiple copies to a reasonable extent that officials are willing to read a document on a computer screen, and paper storage costs, with documents stored on a server accessible through an e-filing website.<sup>xliii</sup> Benefits to authorities include efficiency gains by officials being able to retrieve documents more quickly and easily when they are stored electronically.<sup>xliv</sup> Similar benefits arise from an automated search capacity in electronic systems to locate topics of specific interest in lengthy documents.

### ***Toward justice***

This concept entails a state of attainment of justice, in order for the justice to be attained off, the key factor is presence of mechanism that by which an individual may seek legal assistance, this concept among other things, it involves the right to have a matter be determined by the court of law, encompassing people’s effective access to justice systems, procedures, information and locations used as far as the administration of justice is concerned.<sup>xlv</sup> The judiciary is using cutting edge technologies to save time and money and speed up the delivery of justice as part of the initiative, which includes training court officers, building new court facilities and introducing mobile courts to bring services closer to the people who were excluded in the past.<sup>xlvi</sup>

### ***Case Management System***

Case management system in general entails the entire set of actions that a court takes to monitor and control the progress of a case, from initiation through trial or other disposition to the completion of all post-disposition court work, to ensure that justice is done properly<sup>xlvii</sup>. Courts

have been adopting several methods in the effort to improve efficiency, service delivery and dispose of cases promptly.<sup>xlviii</sup> Over time, this effort of improving efficiency and case disposition in a timely manner resulted in the development of several case management techniques and their operational procedures. Judicial Assistants are necessary in facilitating such techniques.<sup>xlix</sup>

Around the globe, the negative aspects mentioned most frequently in diagnosing the systems of court administration are delays, uncertainty, excessive complexity and inaccessibility.<sup>1</sup> In some legal systems, most of the proposed solutions are almost always to increase the number of judges, administrators, and equipment, or to write new codes.

Frequently, it is believed that these measures will automatically produce the expected results. Meanwhile, the size and structure of the Judicial Branch grows irrationally, creating new conflicts and new difficulties.<sup>li</sup>

However, a great many of the problems are rooted in the models for managing and handling cases. Many of the changes that could resolve these problems could be generated from inside the Judicial Branch without necessary recourse to legislative reform.<sup>lii</sup> Case management system to digitize courts' processes related to filing a case, this system allows litigants and/or their advocates to file cases electronically without physical travel to main registries. the system can now be accessed at all courts and sub registries.<sup>liii</sup>

## **LEGAL FRAMEWORK ON ELECTRONIC FILING OF CASES IN TANZANIA**

The adoption of e-filing of cases in Tanzania, this was made where the government made comprehensive review and amendment of the civil procedure law and the court of appeal rules, to among other things, provide for application of technology in filling of cases and other documents. The amendments were done through civil procedures code Amendment of the first schedule rules,<sup>liv</sup> and the Tanzania court of Appeal (Amendment) Rules.<sup>lv</sup> The Judicature and Application of Laws Act (Electronic Filing) Rules.<sup>lvi</sup>

### ***The Constitutional of the United Republic of Tanzania 1977***

E-filing of cases in courts guarantees basic rights and duties such as equality of human beings as per article 13(1),<sup>lvii</sup> this also is supported by the e-filing of cases because e-filing of case reduces discrimination and unequal treatment of parties to the case. Also, e-filing is an important step towards guarantee equality before the law, as provided under article 13(4),<sup>lviii</sup> it is provided that no person shall be discriminated by any person or authority acting under law. Since e-filing encourages individual compliance to certain requirement when filing a case hence it imperative that discrimination cannot have part.

The constitution also provides the foundation of the administration of justice where under article 107 A (1),<sup>lix</sup> which requires the court in delivering decision in matter of criminal or civil nature to observe principle such as impartiality, not to delay dispensation of justice dispensation of justice without being tied up by technicalities. The essence of adoption of e-filing by the judiciary of Tanzania was to expediated the delivery of justice because justice delayed in always justice denied. More over adoption of e-filing helps effective court activities by allowing easy accessibility to court, reduction of cost and avoidance to technicalities.

Apart from guaranteeing fundamental freedoms and requirement for the administration of justice the constitution also it the mother law of the land in which all other laws must conform with, thus the laws regulating e-filing of cases also have to comply with the requirement of the constitution especially in ensure administration of justice timely, with no or little cost and also observance to the issue of court accessibility.

### ***The Civil Procedure Code Cap 33 RE 2019***

This is the laws which provides for the mandatory and minimum procedural conditions that suits and all proceeding must follow and abide to. The law also provides compliance to the requirements such as institution of cases all the way through judgment procedures. The filing of case is guaranteed by Order IV rule 1,<sup>lx</sup> which provides for the presentation of plaint electronically or manually for instituting a civil case. Also, the law provides for the assignment of cases to the judges or magistrate electronically as per Order IV rule,<sup>lxi</sup>. The law also recognizes the electronic signature to effect e-filing as provided under Order V Rule 2,<sup>lxii</sup> which provides that a summons to file defenses may now be signed by a judge or magistrate through electronic signature. Moreover, the civil procedure code recognizes under Order V rule 29, the

issuance and service of summons, this has been recognized as an important part of the electronic services to which affirms the services of summons through e-mails to other party.

### ***The Judicature and Application of Laws Act (Electronic Filing) Rules, 2018 GN. No 148 of 2018***

These are the rule of procedure which regulates filing of court documents electronically, these emanates from the from the power of the chief justice while exercising powers enshrined under section 4,<sup>lxiii</sup> to make any rules regulating practice and procedure of the high court and other court of the land made these rules to provide and regulate the process of filing documents in court by advocates, state attorney, agents and other relevant personnel<sup>lxiv</sup> to have a registered account with the chief registrar by filing form No C of the first schedule of these rules.<sup>lxv</sup> This law also provided for the signing of documents such as judgement, orders and decrees electronically,<sup>lxvi</sup>. This law also provides for the requirements in relation to time for filing documents in court which now e-filing allows document to be filed even at the midnight not only during working hours.<sup>lxvii</sup> Therefore with this law pleading and documents can be filed while an advocate or attorney is at any place hence allow court accessibility at anywhere.

### ***The Law of Evidence Act, Cap 6 RE 2019***

This is the law which provides the legal foundation on how evidence is dealt in both civil and criminal ligations. This act has legal provision which provides for the electronic filing basically electronic evidence, section 19<sup>lxviii</sup> it is provided that an admission is a statement, oral, electronic or documentary is relevant. Moreover, Section 34B provides for the proof by written statement in criminal proceeding, it also recognizes documents which are in electronic format. This act also provides under section 34B (5), that any document or object refer to as an exhibit and identified in a written or electronic statement tendered in evidence under this section shall be treated as if it has been produced as an exhibit and identified in court by the maker of the statement. The act also provides for the divisibility of electronic evidence section 64A (1),<sup>lxix</sup> which provides that in any proceedings electronic evidence shall be admissible.

### ***The Electronic Transaction Act [CAP 442 RE 2011]***

This is an important law which govern the conduct of electronic transactions, it is applicable in this electronic filing because by itself e-filing is a transaction as defined under Section 3, to mean a transaction, action or set of transactions of commercial nature that takes place



electronically. Normally an e-filing is performance through authentication process which is performed by an authorized attorney. This act requires that an electronic transaction to authenticated through an electronic signature.<sup>lxx</sup> Electronic signature is defined to mean electronic sound, symbol or process to indicate that party's approval or intention in respect of the information contained in the electronic communication and which is attached to or logically associated with such electronic communication.<sup>lxxi</sup> This act also provides for the electronic record where electronic data are stored for the easy retrieval and access by the respective and responsible person.<sup>lxxii</sup> The act also provide a very important aspect of payment of money and issuance of receipt from as proof of conclusion of an electronic transaction.<sup>lxxiii</sup> This process is applicable forthwith the e-filing of cases that normally an electronic filing is said to be conducted after payment of fees.

### ***The Electronic and Postal Communication Act [Cap 306 RE 2020]***

This is the act provides for the regulations related to conduct of online contents service providers, internet providers, application of licenses, online content users and any other related online content.<sup>lxxiv</sup> Since e-filing is conducted online it means that this act also can apply to matters related to filing of cases. This law is useful in this study because it provides the general guidance on electronic transaction are being conducted. Also, it provided guidance on how authentication od documents electronically is conducted. The electronic transaction Act defines an electronic signature as a data including an electronic sound, symbol, or process, executed or adopted to identify a party, to indicate that party's approval or intention in respect of the information contained in the electronic communication and which is attached to or logically associated with such electronic transaction. Fundamentally electronic transaction Act further recognizes that where a law requires that a person's signature or seal be entered or affixed to a particular document and that law does not prescribe the method of form by which such document may be signed, sealed or affixed that requirements can be met by applying a secure electronic signature, by the person specifically to do so. This means that a contract or document cannot be deemed legally enforceable in Tanzania merely by the fact it was signed electronically, provided that nothing in any law restricts the application of electronic signature to that particular document. This Act is also useful because it sets out broadly the standard for ensuring safety and security of an electronic signature. This of course is aimed at hedging against identity theft, fraud and human errors, among other which may likely occur in the

course of procuring and applying an electronic signature to a document. Section 7 of the electronic Transaction Act also set out standards or specifications for determining where an electronic signature is secure and these are

The electronic signature has to be unique for the purpose for which it is used, it can be used to identify the person who signs the electronic communication, it is created and affixed to the electronic communication by the signer, it is created under control of the person who signs and it is created and linked to the electronic communication to which it relates in a manner such that any change in the electronic communication would be revealed.

## **CONCLUSION**

From the research findings it can be established that e-filing of cases entails the courts adoption of electronic system to facilitate the process of filing cases. Electronic filing (hereinafter "e-filing") is the filing of information in electronic form, as opposed to paper form. E-filing will likely have a more pervasive effect on the legal system than did the adoption of administrative procedure acts or codes of civil procedure. It will require fundamental changes in organization, operation, management, and resource utilization by courts, lawyers, clients, citizens, and government entities.

Before analyzing the basis for such a sweeping statement, it is proper to begin at a common starting point. Traditionally, filings in courts and government agencies have been in paper form. Prior to implementing e-filing, some courts and government agencies, using information from the filed original paper records, have created a variety of electronic information systems to assist in locating and using information in the original paper records. Thus, implementation of e-filing of cases was affected by the amendment of laws and introduction of rules to cater for the applicability of e-filing of cases in Tanzania.

## **RECOMMENDATIONS**

Adoption and implementation of e-filing is truly a merger step towards enhancement of accessibility to justice in Tanzania. However, it is should know that any technological

development come up its set of limitation to its users. Also, technology becomes sophisticated daily hence it is important for the use to stay updated over it and should not rely only one the model implemented but rather should take their time to researcher and have abilities to comprehend and apply technology in multi-diversity.

This study recommends to that the judiciary should ensure that e-filing system has an intuitive and user-friendly interface, which makes it easy for lawyers, litigants and court staff to navigate and use. Also, the judiciary should conduct a usability testing and gather feedback from the user to identify areas for improvement.

Moreover, the study also recommends on the compatibility and interoperability, this can be brought by ensuring that e-filing is compatible with various devices and operating systems, allowing users to access and file documents from desktops, laptops, tablets and smartphones. Moreover, it is important to improve interoperability with other legal and government system to streamline data sharing.

The study also recommends for more training to the officials of the judiciary, that training should be provided to the judges, clerks and other court staff on the e-filing system's functionalities to ensure smooth handling and processing of electronic filing of cases. This will enable them to do away with minor challenges facing their performance and system and use. The end of justice should always benefit the community hence it is important that e-filing is also recommended into the understanding of the community members.

Therefore, it is recommending that community members should encourage their attorney to use e-filing system. Also, the public should be keen in reporting the challenges associated with e-filing of cases. This study also recommends that community member should be patient since this study is still developing in Tanzania hence, they should give it time to operate.

This study further recommends that academicians should more research in this area and writes more about the adoption of filing system in the judiciary, to increase more awareness to the public. Also academicians are always in a position to critique the system and come forward with ways to improve the performance of e-filing system.

## ENDNOTES

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- <sup>i</sup> GN No. 148 of 2018.
- <sup>ii</sup> The Constitution of the United Republic of Tanzania Cap 2 of 1977 as amended from time to time
- <sup>iii</sup> Ibid, Article 107A (2)
- <sup>iv</sup> Mshana, A.J (2017) *E-Judiciary: A Step towards Transforming Tanzanian Legal Systems*, at pg 1 & 2
- <sup>v</sup> GN No. 148 of 2018
- <sup>vi</sup> Cap. 358 R.E 2019
- <sup>vii</sup> <https://www.oxfordlearnersdictionaries.com/> (retrieved on 4, February, 2023 at 14:22 PM)
- <sup>viii</sup> Kamatula, A.G., (2010) *Managing records at the University of Dar es salaam, Tanzania*, MA dissertation, University of Botswana, Gaborone
- <sup>ix</sup> Cap 33 R.E 2002
- <sup>x</sup> Joseph, P., et al., (2012) *Paradigm shift in records keeping responsibilities: Implications for ISO 15489's implementation*. Records Management Journal, 22(1), 57-75.
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- <sup>xii</sup> Mohamed, B., et al., (2017) *Management of records in Tanzania: Review and appraisal of applicable theories and examination of selected empirical finding*, Journal of Public Administration and Governance 8(1), 51-67
- <sup>xiii</sup> GN No. 148 of 2018
- <sup>xiv</sup> See regulation 13 of the Judicature and Application of Laws (Electronic Filing) Rules, 2018
- <sup>xv</sup> Hon. Philip G. Espinosa, (2014) *The Paperless Court of Appeals Comes of Age*, 15 J. APP. PRAC. & PROCESS 99.
- <sup>xvi</sup> Lainie, R.W., et al., (2015) *Ready or Not Here We E-Come: Remaining Persuasive Amidst the Shift Towards Electronic Filing*, 12 Legal Comm. & Rhetoric: JALWD 83.
- <sup>xvii</sup> Constitution of United Republic of Tanzania of 1977 as amended from time to time.
- <sup>xviii</sup> Ibid
- <sup>xix</sup> Ibid
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